

REMARKS

1. In response to the Office Action mailed October 3, 2005, Applicant respectfully requests reconsideration. Claims 58-65 and 67-76 were last presented for examination in this application. In the Office Action claims 58-65 and 67-76 were rejected. No claims have been amended, canceled or added. Thus, upon entry of this paper, claims 58-65 and 67-76 will remain pending in this application. Of these 18 claims, two (2) claims (claims 58 and 68) are independent. Based on the following Remarks, Applicant respectfully requests that the outstanding objections and rejections be reconsidered, and that they be withdrawn.

Art of Record

2. Applicant acknowledges receipt of form PTO-892 identifying additional references made of record by the Examiner.

3. Applicants acknowledge receipt of form PTO-1449 filed by Applicants on October 1, 2001, which has been initialed by the Examiner indicating consideration of the references cited therein.

Claim Rejections under § 103(a)

4. The Examiner has rejected independent claims 58 and 68 and dependent claims 59-65, 67, and 69-76 under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,689,717 to Pritt (hereinafter, "Pritt") and further in view of U.S. Patent No. 6,054,984 to Alexander (hereinafter, "Alexander").

5. Applicant respectfully submits that the Examiner's reliance on Alexander is improper because Alexander is not prior art under 35 U.S.C. §103. As noted in the Manual of Patent Examining Procedure (MPEP) § 2141.01, subject matter that is prior art under 35 U.S.C. 102 can be used to support a rejection under 103" and the applicable section of 35 U.S.C. 102 depends on the reference. However, the Alexander reference relied upon by the Examiner fails to satisfy the 35 U.S.C. 102 provisions because the inventive entity for the Alexander reference and the inventive entity for the present application are identical. That is, Jay A. Alexander is both the inventor of the invention claimed by the Alexander patent cited by the Examiner and the invention claimed by the present application. Thus, the Alexander patent is not an invention by others or by another. As explained in *Reading & Bates Construction Co. v. Baker Energy Resources Corp.*, "[W]here the inventor continues to improve upon his own

work product, his foundational work product should not, without a statutory basis, be treated as prior art solely because he admits knowledge of his own work. It is common sense that an inventor, regardless of an admission, has knowledge of his own work.” 748 F.2d 645, 650 223 USPQ 1168, 1172 (Fed. Cir. 1984). As such, Alexander is not a prior reference under 35 U.S.C. §102. The Examiner is also reminded that the present invention is a divisional of U.S. Patent 6,320,577 to Alexander, filed November 3, 1998, and that the Alexander reference cited by the Examiner did not issue until April 25, 2000, and as such cannot qualify as a reference under 35 U.S.C. §102(b). Therefore, because the Alexander reference cited by the Examiner fails to satisfy the prior art requirements outlined in the M.P.E.P, the Examiner’s reliance on Alexander is improper, requiring withdrawal of the outstanding §103 rejection.

6. Applicant also notes that the Examiner has failed to provide the Applicant with any motivation to combine the cited references. Instead, the Examiner merely made the conclusory statement “[t]hus, it would have been obvious to a person skill in the art to modify the Alexander’s invention e.g. fig. 8 that incorporates display of an oscilloscope into Pritt’s invention in fig. 6 the display item labeled 28. The result would be similar to the current application’s invention.” (See, Office Action, Pgs. 3-4.) As such, the Examiner has failed to provide any evidence, whether in the form of some teaching, suggestion, incentive or inference in Pritt or other art of record, or in the form of generally available knowledge, that one having ordinary skill in the art would have been led to modify the relevant teachings of Pritt in the proposed manner. (See, M.P.E.P. §2143.01.) Therefore, because, as acknowledged by the Examiner, Pritt does not identically disclose the present invention, and the Examiner has provided no motivation to modify the teachings of Pritt with the teachings of Alexander, the rejection was improper and should be withdrawn for at least this additional reason.

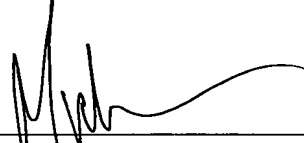
Dependent Claims

7. The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter which makes them a fortiori and independently patentable over the art of record. Accordingly, Applicants respectfully request that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

Conclusion

8. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael G. Verga', written over a horizontal line.

Michael G. Verga
Reg. No. 39,410

November 8, 2005